

Randy McClement
Mayor

GAIL COLBY



Aldermen

Karen Lewis Young
President Pro Tem

Michael C. O'Connor
Shelley M. Aloï
Carol L. Krimm
Kelly M. Russell

**ZONING BOARD OF APPEALS
MEETING AGENDA
April 23, 2013
7:00 p.m.
City Hall Boardroom
101 North Court Street**

I. Board Business

A. Approval of March 19, 2013 Minutes

II. General Public Comments

III. Old Business

B. ZBA13-87NCL, Substitution of Non-Conforming Use, 329 East Second Street

The Applicant is requesting a one month continuance to the May 28, 2013 Zoning Board of Appeals meeting. (Mark)

IV. New Business

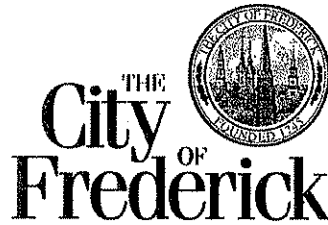
C. ZBA13-180CU, Conditional Use, 221 A N East Street

The Applicant is requesting approval of conditional use application in accordance with Section 857 of the Land Management Code (LMC) entitled, *Winery*, for the purposes of continuing the existing winery operation at 221 A N East Street. (Dunn)

V. Zoning Determinations

13-160ZD – 230-238 West Patrick Street
13-165ZD – 1700 Rosemont Avenue, Sun Trust Bank
13-168ZD – Zoning Determination, 204 Abrecht Place
13-169ZD – Zoning Determination, 210 Abrecht Place
13-171ZD – Zoning Determination, 206 W. Patrick Street
13-172ZD – Zoning Determination, 219 W. Patrick Street
13-173ZD – Zoning Determination, 228 W. Patrick Street
13-174ZD – Zoning Determination, 249 W. Patrick Street
13-198ZD – Zoning Determination, 97 Monocacy Blvd. Unit E
13-199ZD – Zoning Determination, 100 Alessandra Court
13-206ZD – Zoning Determination, The Haven at Market Square, LLC
13-236ZD – Zoning Determination, 351 Ballenger Center Drive, Lot 8R

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Other Determinations may be presented at the April Zoning Board of Appeals meeting.

A complete and final agenda will be available for review prior to the meeting at the Zoning Board of Appeals located at 140 West Patrick Street and on the Internet at www.cityoffrederick.com. For information regarding the agenda, minutes, or public meetings of the Zoning Board of Appeals please contact Lea Ortiz at (301) 600-3188. Individuals requiring special accommodations are requested to call 5 days prior to the meeting to make arrangements.

**CITY OF FREDERICK
ZONING BOARD OF APPEALS
MEETING MINUTES
March 19, 2013**

MEMBERS PRESENT:	MEMBERS ABSENT:	STAFF PRESENT:
Mr. Racheff Ms. Colby Mr. Patchan Mr. Philip Dacey	Mr. Marvin Kennedy	Gabrielle Dunn, Division Manager of Current Planning Brandon Mark, City Planner Lea Ortiz, Office Manager

ANNOUNCEMENTS

For the benefit of the audience and especially the applicants, Mr. Racheff, Chairman, introduced everyone by name and department and explained the Zoning Board of Appeals process.

APPROVAL OF MINUTES:

A. February 26, 2013

MOTION: Ms. Colby moved to approve the February 26, 2013 hearing minutes as published.
SECOND: Mr. Patchan
VOTE: 4-0

GENERAL PUBLIC COMMENT

There was no general comment.

CASES TO BE HEARD

B. ZBA13-87NCI, Substitution of Non-Conforming Use, 329 East Second Street

MOTION: Mr. Patchan moved to continue ZBA13-87NCI to the April 23, 2013 public hearing.
SECONDED: Ms. Colby
VOTE: 4-0

C. ZBA13-88V, Variance, 1102 Evergreen Avenue

Mr. Mark read the entire staff report into the record.

PUBLIC COMMENTS:

Mr. Lee resides at 119 East 5th Street and is in support of this application.

Applicant stated they could use alternative building materials to construct the driveway thereby, reducing the amount of impervious surface on the lot to a ratio less than 50%, and obviating the need for the requested variance to the ISR.

MOTION: Mr. Patchan moved to approve ZBA13-88V for the construction of a one-story handicap accessible in-law suite that does not meet the front and rear setback in the R6 zoning district, a variance of 5' from the 25' front yard setback and a 18' variance from the rear yard setback of 30' according to Section 405, Table 405-1 of the Land Management Code based on the following findings and fact:

1. That the lot shape and orientation of the subject property represent conditions unique to the property when compared with other properties in the same district and block and that those unique conditions present practical difficulties in meeting the 30' rear yard and 25' front yard setback requirement.
2. The variances are not contrary to the public interest in that the provision of light, air, and appropriate access to the structure and neighboring properties is not impeded by the addition.
3. That the requested variances will allow for the construction of an addition to the structure which is consistent with the scale of an addition that would be permitted on similarly situated properties in the R6 district and that the Dimensional and Density Regulations set forth by the LMC do not allow for the construction of a reasonably sized addition to the structure.
4. That the literal interpretation of the LMC deprives the Applicant the right to build a reasonable addition.
5. That the granting of the variances from Section 405, Table 405-1 will not confer on the Applicant any special privileges that are denied by the LMC to other lands or structures in the same district. Other lands in this district are configured much differently and when the required setbacks are applied to those properties, the resulting building envelope is more conducive to typical improvements.
6. That the granting of the variances will be in harmony with the general purpose and intent of the LMC by allowing handicap accessibility to the primary structure.
7. That the Applicant has not created the situation which necessitates the variances.

SECONDED: Ms. Colby

VOTE: 4-0

The meeting adjourned at 8:00 p.m.

Respectfully submitted,
Lea M. Ortiz

**CITY OF FREDERICK
BOARD OF ZONING APPEALS
PROJECT STAFF REPORT**

April 23, 2013

PROJECT INFORMATION

AGENDA ITEM:	B.
NAME OF PROJECT:	221 A North East Street
TYPE OF PROJECT:	Conditional Use
CASE NUMBER:	ZBA13-180CU
OWNER:	William B. Anderson, 221 N East Street LLC
PROJECT ADDRESS:	221 A North East Street
APPLICANT:	Scott D. Miller, Esq., Rohrsersville Vineyards LLC
PHONE:	(301) 302-8169
ZONING:	Downtown Commercial/Residential (DB)
REVIEW BY:	Gabrielle Dunn
DATE:	April 18, 2013
PROPOSED ACTION:	Request for approval of a conditional use application for the continued operation of a winery at 221 A North East Street in accordance with Sections 308 and 857 of the Land Management Code (LMC).
EXHIBITS:	Application Packet Zoning Determination 05-489 Supplemental Justification Statement Revised Exhibit 2 Ordinance G-12-04

BACKGROUND INFORMATION

Frederick Cellars, LLC originally established a winery on the subject property in 2006 after a determination that the proposed use was functionally similar to other uses permitted "by right" in the DB zoning district (see Zoning Determination 05-489). Subsequent to establishing the use, the owner wished to expand the operations to include live entertainment and to use the facility for receptions. At that time, it was determined that an amendment to the LMC was necessary in order to establish a "winery" as a use in Section 404, Table 404-1, the *Use Matrix*.

Ordinance G-08-10 was approved by the Mayor and Board of Aldermen on June 5, 2008 establishing Section 857 of the LMC entitled, *Winery*, and establishing wineries as a conditional use in the DB zone amongst other districts. On July 22, 2008, the Zoning Board of Appeals (ZBA) approved the conditional use application in accordance with the

newly adopted regulations with conditions as more expressly defined in the Findings and Decision letter dated July 28, 2008.

In August of 2010 a zoning permit was applied for to establish the Shab Row Bistro and Wine Bar in approximately half of the space occupied by the winery. A zoning permit was approved for the restaurant and a new zoning permit issued for the existing winery in the remaining half of the building. The new zoning permit for the winery being required in order to verify that the use still met the criteria previously approved by the ZBA and that it still met the definition of winery as opposed to a beverage manufacturer which is prohibited in the DB district.

The Applicant, Rohrersville Vineyards LLC, purchased the remaining assets of Frederick Cellars, LLC in January of this year and is seeking approval in order to continue to operate the winery at 221 A N East Street. Per Section 308 of the LMC, which regulates conditional uses, conditional uses do not run with the property and are not transferable.

STAFF COMMENTS & ANALYSIS

Section 308 of the Land Management Code (LMC) allows the Zoning Board of Appeals to authorize conditional uses when the Board finds that all of the following conditions exist:

- 1. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and the LMC.**

Applicant responds: Site Plan 07-461FSI (the "Site Plan") remains valid and Frederick Cellars, LLC and now Rohrersville Vineyards, LLC remain in compliance therewith. The property is zoned DB and a Winery remains a conditional use permitted in the DB zone.

Staff responds: As noted above, the subject property is zoned Downtown Commercial/Residential (DB) which is intended to encourage the development of the Center City's commercial areas. This district allows for most office and retail activities as well as high density residential uses. As noted by the Applicant, a winery is a conditional use in the DB zoning district subject to compliance with Section 857 of the LMC. As such, Staff concurs that the use is in harmony with the purpose and intent of the DB zoning district as established by the LMC.

The continuation of a winery at this location is also in harmony with several of the 2010 Comprehensive Plan's policies including Economic Development Policy 6, which is to maintain and enhance downtown's role as the hub of government, arts, culture and commerce. This implementation goals associated with this policy include encouraging and supporting opportunities for arts and entertainment as well as the adaptive reuse of structures.

Based on compliance with all of the criteria established in Section 308 and 857, the use is also consistent with the policies of the LMC and the Comprehensive Plan which advocate for compatibility of land uses and the prevention of negative impacts on surrounding properties.

2. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.

Applicant responds: Entertainment has been a component of the use since its approval on July 28, 2008 without incident or known complaint.

Staff responds: There are a variety of different land uses permitted "by right" in the DB zoning district, many of which have the potential to create substantial amounts of pedestrian and vehicular traffic. In addition, there are other uses, such as a bakery which was cited in the previous zoning determination related to this use (05-489), which involve the limited production of goods that are also permitted in the DB district. A winery has been operating at this location since 2006 with entertainment being established as an amenity in 2008. Since then, the footprint of the winery has been reduced in scale and has continued to operate without causing a disruption to the surrounding community or conflicting with other surrounding land uses. The Applicant proposes to continue to operate the winery at this reduced scale and as such, Staff finds that the proposed use will not have a greater adverse impact than other uses permitted in the DB district.

3. That the proposed activity will comply with all conditions and requirements as set forth in the LMC, including any specific standards established in Article 8 of the LMC.

It should be noted that since the original ZBA approval was granted for the winery, Section 857 of the LMC has been amended. Ordinance G-12-04 was adopted by the Mayor and Board of Aldermen on February 2, 2012. The following criteria reflect those established under these revisions.

- a) A winery shall comply with all regulations of the Maryland Annotated Code, Article 2B, and the Frederick County Alcoholic Beverages Regulations, including but not limited to any licensing provisions, and the Applicant shall submit copies of all such licenses with the conditional use application.

Applicant responds: As was the case with Frederick Cellars, LLC, Rohrsersville Vineyards LLC maintains a winery-manufacturing license from the federal government and the State of Maryland attached hereto as Exhibit 4 and Exhibit 5 respectfully.

Staff responds: The Applicant has provided copies of the required licenses from the federal government as well as the State of Maryland. Under State Code, the Applicant holds a Class 4 Manufacturer's License-Limited Winery for which no local license is necessary.

- b) Except in the DB and MU zoning districts, the closest point of a winery structure may not be located less than 500 feet from a residentially zoned lot. The Board may waive this criteria if the Applicant demonstrates that adequate screening or buffering will be provided by other commercial structures, roadways, or trees to ensure the winery will not have a substantial adverse impact on adjacent neighborhoods or residential properties.

Applicant responds: The property is zoned DB and is exempt from the distance requirement.

Staff responds: Staff concurs with the applicability of subsection b) based on the zoning of the property.

- c) Live entertainment, retail sales, tasting rooms, food service are permitted as part of the winery operations, however, area dedicated to these uses cannot comprise more than a total of 40% of the total square footage of a winery/
- i. Entertainment- The Board will specify in its approval of a winery the type of entertainment and days of the week and hours of the day in which entertainment is to be performed. Entertainment which includes sexual conduct, nudity or obscenity is prohibited.

Applicant responds: Rohrsersville Vineyards, LLC will continue to operate the winery in compliance with the Site Plan that devotes only 30% of the building to retail sales, tastings, and events. Rohrsersville Vineyards, LLC does not propose to alter the type of entertainment to be performed or the days of the week and hours of the day in which entertainment is to be performed as per the prior approval for this location. As per the ZBA approval entertainment was approved for Sunday-Thursday until 10:00pm; Friday and Saturday until midnight; and New Year's Eve until 1:00 a.m. In addition, the ZBA approval imposed an additional condition that the business shall have no outside speakers and shall operate with closed doors while having entertainment. The Applicant is willing to accept this additional conditions part of any approval granted and the Applicant will comply with the schedule for entertainment previously imposed by the ZBA. The Applicant is not aware of any complaints from neighbors regarding these days and times for entertainment. The type of entertainment which was conducted by the previous owner is proposed to continue with the Applicant's operation. The entertainment consists of live performance of jazz, folk, blues, and classical music. A majority of the music will be performed acoustically but on some occasion, amplified music may be performed; however the Applicant does not intend to include rock music or other similar heavily amplified music to be performed.

Staff responds: Exhibit 2 provided by the Applicant depicts the floor plan of building. The first floor of the entire building is 6,780 square feet; however, as noted above in the background information, the space was divided into two in 2010 with the restaurant, Shab Row Bistro and Wine Bar, approved under a separate zoning permit. The remaining area

of the winery (221 A North East Street) is 3,390 square feet; of that total, 1,000 square feet will be used for the tasting room and retail area. Accordingly, the area reserved for tastings/entertainment/retail and food constitutes slightly less than 30% of the total winery facility.

As indicated by the Applicant, they are requesting approval for entertainment that is consistent with what was originally approved for Frederick Cellars in 2008. As noted, the scale of the facility has been greatly reduced since that original approval and as such, it is logical to assume that the ability to support the same types of entertainment and at the same frequency is limited. Staff would note that any entertainment at the facility is subject to compliance with the noise ordinance.

- d) The application for a winery as a conditional use must include a scaled building floor plan showing all components of the winery and the square footages of each area. The floor plan must depict the following: ingress and egress points, manufacturing, storage, parking and loading, offices, public areas for tours, tasting, events, restrooms, and retail sales. Any areas outside the building (patios, terraces, plazas etc.) to be used for events and tastings must also be shown and the dimension of these areas provided.

Applicant responds: Attached hereto as Exhibit 2 is the floor plan previously approved as part of the 2008 ZBA Approval which as deemed sufficient by the City Fire Engineer for a maximum occupancy load of 105 people. The Applicant does not propose any changes to the floor plan.

Staff responds: In addition to the floor plan, a final site plan was previously approved for the use in this location in compliance with all applicable regulations of the LMC including parking, loading, etc. The Applicant is not proposing any changes to the site at this time, however, if changes should be proposed a new final site plan application would be required to ensure continued compliance.

- e) The Applicant shall provide guarantees as deemed necessary by the ZBA that the winery will not constitute a nuisance because of noise or other activities associated with the use. See LMC Section 319.

Applicant responds: The winery has operated without incident since its approval. As noted in the Staff Report the Board has the option to revisit the conditional use if the activities associated with the use merit a status update.

Staff responds:

- f) Special events at a winery are permitted in all zoning districts in accordance with the temporary use provisions of Section 867 for public assemblies. Prior to each event, the Applicant must obtain a zoning permit from the Building Department. The permit application must demonstrate that appropriate on or off-site parking arrangements have been made for event parking. The Applicant must also

demonstrate that the special event will not have a substantial adverse impact on adjacent properties. In residential districts or on properties abutting residential zoning districts no more than four special events per year are permitted.

Applicant responds: The Applicant acknowledges that special events require a temporary use permit and that prior to each event; the Applicant must obtain a zoning permit from the Building Department. The permit application must demonstrate that appropriate on or off-site parking arrangements have been made for event parking. Lastly, the Applicant must demonstrate that the special event will not have a substantial adverse impact on the adjacent properties and that because the property abuts a residential zoning district, Applicant acknowledges that not more than four special events per year are permitted.

Staff responds: As noted in this criterion and in the Applicant's response, any special events to be hosted on the site will require a temporary use permit which will be subject to review in accordance with Section 867 of the LMC. The properties immediately abutting to the south and west are zoned Downtown Residential (DR) which is considered a residential zoning district per Section 1002 of the LMC and as such, the number of special events permitted by temporary use are limited to four per year.

Lastly, as described in Section 312(e) of the LMC, in the decision making process the Zoning Board of Appeals should consider the following to the extent that they apply to the application:

- 1) The purpose, application, interpretation and standards of the LMC;
- 2) The applicable standards established in Articles 8 and 9 of the LMC;
- 3) The applicable legal standards;
- 4) The orderly growth and improvement of the neighborhood and the community;
- 5) The most appropriate use of land and structures in accordance with the Comprehensive Plan;
- 6) Facilities for sewer water transportation and other services and the ability of the City/County to supply these services;
- 7) The limitations of fire fighting equipment and means of access for fire and police protection;
- 8) The effect of such use on the peaceful enjoyment of people in their homes
- 9) The number of people residing, working, or studying in the immediate area in order to prevent overcrowding or overconcentration of similar uses;
- 10) The type, character, and use of structures in the vicinity especially where people are apt to gather in large numbers such as schools, churches, theaters, hospitals and the like;
- 11) Traffic conditions including pedestrian facilities and parking facilities;
- 12) The preservation of cultural and historic landmarks;
- 13) The conservation of property values;
- 14) The effect of odors, dust gas smoke fumes vibration glare or noise on surrounding properties;

- 15) The contribution that the building, use or addition would make to towards the deterioration of areas and neighborhoods;
- 16) The objectives of the forest conservation ordinance.

PUBLIC NOTICE

This project met the public notice requirements as stipulated in §301 (b) of the General Procedural Requirements of the LMC. Notice of the request was published in the Frederick News-Post on Saturday April 6, 2013. "Application of ZBA public hearing" notices were sent by the Applicant to property owners that were adjoining and/or abutting the subject site. As of this writing, staff has received no responses in favor or opposition to this request.

FINDING OF FACTS & STAFF RECOMMENDATION

FINDING OF FACTS

- The subject property is located in the DB zoning district.
- The subject property was approved for a conditional use in accordance with Section 857 of the LMC, *Winery*, in July of 2008.
- Per Section 308(a)(2), conditional use do not run with the property and are not transferrable.
- The Applicant has purchased the winery from the previous owner and is now seeking conditional use approval in accordance with Section 856 of the LMC.
- The ZBA may grant approval of conditional uses if the proposal meets all decision making criteria set forth in Section 313(c).

STAFF RECOMMENDATION

Staff recommends approval of case ZBA13-180CU in accordance with Sections 308 and 857 of the LMC based upon the testimony provided by the Applicant, the information provided in the staff report, the finding of facts noted above, and the following:

1. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and the LMC.
2. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.
3. That the proposed activity complies with all conditions and requirements as set forth in Section 857 of the LMC as follows:
 - a) The winery has provided copies of both State and Federal licenses regulating the operation.

- b) The property is zoned DB and as such, the use may be within 500' of a residentially zoned lot.
- c) The furnished floor plan depicts that the retail/tasting/entertainment component of the use will be limited to approximately 30% of the overall floor area of the winery space, falling within the maximum 40% permitted.
- d) A scaled building floor plan showing all components of the winery and the square footages of each area has been provided. In addition, the Applicant intends to maintain compliance with all exterior improvements as approved on final site plan PC07-461FSI including parking, loading, etc.
- e) The Applicant has testified that the winery will not constitute a nuisance because of noise or other activities associated with the use.
- f) The Applicant acknowledges that any special events to be hosted by the winery will require approval of a temporary use permit in accordance with Section 867 and that any such special events will be limited to four per year based on the adjacency of residentially zoned properties.

Subject to the following conditions:

1. In accordance with Section 312(g), the Applicant must apply and receive approval for a zoning certificate in accordance with Section 304 of the LMC within two years of approval otherwise the decision of the Board shall become void.
2. That entertainment at the winery be limited to Sunday-Thursday until 10:00 pm, Friday and Saturday until midnight, and New Year's Eve until 1:00 am and that the type of music be limited to live musical performances and that these restrictions be noted on the zoning certificate.

NOTICE OF RIGHT TO APPEAL

Pursuant to Maryland Law, any person aggrieved by any decision of the Zoning Board of Appeals or any taxpayer or officer, department, or board of the City may seek recourse from the decisions of the Zoning Board of Appeals to the Circuit Court, as provided by law. All appeals must be filed within thirty (30) days of the date of the decision rendered on April 23, 2013.



DEPARTMENT OF PLANNING

101 North Court Street c Frederick, MD 21701 c ph: (301) 694-1499 c fax: (301) 694-1837

September 27, 2005

Mr. Charles Daneri
1320 Mountain Church Road
Middletown, MD 21769

RE: ZONING DETERMINATION DET05-489: 221 N. EAST ST

Dear Mr. Daneri:

In response to your letter dated August 8, 2005, Staff has prepared the following information:

The subject property is zoned Downtown Commercial/Residential (DB) per the newly adopted 2005 Official Zoning Map for the City of Frederick. The DB zoning district is intended to encourage the development of the Center City's commercial areas. It allows most office and retail activities as well as high-density residential uses. To encourage the implementation of this objective, certain parking requirements shall be relaxed for developments or redevelopments in this district (see Parking Requirements Chapter 6).

According to your determination request letter it is understood that the business owner's intended operations will involve multiple activities, which include:

1. The agricultural processing of plants, i.e. grapes and other fruits, delivered to the site used for the commercial purpose of producing wine or similar spirits. This processing shall include crushing, fermenting, blending, aging, storage, bottling, wholesale distribution and administrative office functions for the winery and warehousing. Based on your letter, the wholesale distribution accounts for 33% of the wine produced on site; the other two-thirds is sold to retailers, customers on-site or at wine festivals. It is also understood that 7,500 gallons of wine is projected to be produced on-site annually, which is similar in volume to microbreweries operating in restaurants. Less than 2,000 square feet of the subject building is devoted to the wine production.

2. Retail sales and tasting facilities of wine and related promotional items are proposed to complement the winery operations. Retail wine sales shall include products processed on site as well as sundry products associated with the winery.

The requesting letter also documents that the proposed business will be located at 221 N. East Street in a structure that will be an adapted reuse of a historic industrial building. While this property is not located in the Frederick Town Historic District Overlay, the structure is surrounded by similar character structures originally constructed for industrial activities and have been adaptively redeveloped for office and retail uses.

Section 404 – Use Regulations – of the Land Management Code (LMC) identifies permitted, conditional, seasonal or accessory uses within each Zoning District in Table 404-1 (attached). A “winery/retail store” is not listed nor defined within the Land Management Code as one of the above uses.

However, Section 404(b)(3) states, “Uses not listed as a ‘permitted use’ or ‘conditional use’ are presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in the Use Matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the Zoning Administrator shall determine whether a materially similar use exists in this Section. Should the Zoning Administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the Zoning Administrator’s decision shall be recorded in writing. Should the Planning Director determine that a materially similar use does not exist, this Chapter may be amended to establish a specific listing for the use in question.”

Section 404 (b)(4) and (5) of the LMC establish the evaluation criteria to determine if an unlisted use can be classified as a use enumerated in the Use Matrix by directing the Zoning Administrator to compare the proposed use to other listed uses using the Land-Based Classification Standards (LNCS) developed by the American Planning Association (APA). If a proposed use is listed as within the same Structure or Function classification as the use specifically enumerated in the Use Matrix, then that proposed use shall be considered materially similar if it falls within the same LBCS classification and meets the requirement that the proposed use does not generate more than 10% additional traffic compared to a listed use.

A review of the APA Land- Based Classification Standards for “Structure” and “Function” of the above mentioned winery/retail sales operation identified the following:

From a structural perspective, the proposed use appears to fall into both the “Restaurant building” and the “Loft building” categories.

LBCS DETAILS FOR A SINGLE CATEGORY

Structure 2220: Restaurant building

Restaurant buildings that serve food for customers for consumption on or off premises. These structures may also be characterized by specialized cooking, serving, and health and hygiene equipment.

Structure 2611: Loft building

Multistoried industrial building, often with higher ceilings and wider columns than a comparable office building. They are popular structures for rehab to residential activities. Other rehab adaptations include art galleries, selling books, computer data centers, mail order centers, and general office space.

From a functional perspective, the proposed use appears to fall into the one generalized category of "Retail Sale or Services" and the three more specific categories of "Grocery Store, supermarket, bakery," "Beer, wine, and liquor store" and "Food and beverage" manufacturing.

LBCS DETAILS FOR A SINGLE CATEGORY

Function 2100: Retail sales or service

Retail establishments form the final step in the distribution of merchandise. They are organized to sell in small quantities to many customers. Many have stores, but some also sell merchandise from non-stores. Establishments in stores operate as fixed point-of-sale locations, which are designed to attract a high volume of walk-in customers. Retail establishments often have displays of merchandise and sell to the general public for personal or household consumption, though they may also serve businesses and institutions. Some establishments may further provide after-sales services, such as repair and installation. Examples of store retailers include catalog showrooms, gasoline services stations, and automotive dealers. Subcategories group retail establishments by their industry type.

Function 2151: Grocery store, supermarket, or bakery

Supermarkets and other grocery (except convenience) stores retail a general line of food, such as canned and frozen foods; fresh fruits and vegetables; and fresh and prepared meats, fish, and poultry. Included in this class are meat and seafood markets, delicatessen-type establishments, and establishments retailing baked goods (not for immediate consumption and made off-premises).

Function 2155: Beer, wine, and liquor store

These establishments primarily retail packaged alcoholic beverages, such as ale, beer, wine, and liquor.

Function 3110: Food and beverages

Establishments in the food and beverage subcategory transform livestock and produce into products for intermediate or final consumption; or they manufacture beverages. These products are typically sold to wholesalers or retailers; however, also included here are bakery and candy establishments that produce on the premises for later consumption. Beverage manufacturing includes the manufacture of nonalcoholic and fermented and distilled alcoholic beverages. Ice manufacturing, while not a beverage, is also included because it uses the same production process as water purification.

When comparing these multi-use classifications of a proposed use with the listed uses in Table 404-1 of the LMC, there is no perfect match. However, as provided in Section 404(b)(4), there are several LBCS function categories that are permitted in the City of Frederick's DB zoning district, such as "Bakery, Baked Goods Store" which has a LBCS Functional Category of 2151. The proposed winery/retail store also has functional similarities to the LBCS Functional Categories of 2100 and 2155. Retail sales and liquor stores are permitted uses in the DB zoning District as documented in Table 404-1.

It must be acknowledged that the proposed "winery/retail store" also has functional similarities to a "Food and Beverage" manufacturer (LBCS Function Category 3110), which is listed in Table 404-1 as a use not permitted in DB, but is only allowed in M1, M2 and MXE zoning districts. While the function of the proposed use identified in Mr. Daneri's letter is similar to large manufacturers of food and beverages, such as industrial bakeries. The scale of the use is the critical factor to consider in determining the permissibility of the proposed "winery/retail store." A bakery has the same functional classification as the winery, i.e. Function Category 3110, and some types of bakeries are in the same family of NAICS classifications. However, the scale of the bakery is the determining factor of whether the bakery is appropriate for a DB zoning district, rather than an industrial zoning district. Similarly, a "winery/retail store" that caters predominately to retail customers and the wine processing is unobtrusive would be appropriate in a DB zoning district. However, if the winery had significant truck traffic, large volumes of outside storage, large volumes of raw material storage and waste collection, such a use would not be appropriate in a DB zoning district and should only be allowed in an industrial zone.

The proposed "winery/retail stores" is similar in function and structure to a restaurant and bakery that would be found in the Downtown Business District. Based on Mr. Daneri's letter, the volume of wine processing, i.e. 7500 gallons, and the description of the operation, the proposed "winery/retail store" is determined to be a permitted use in the DB zoning district under the following conditions:

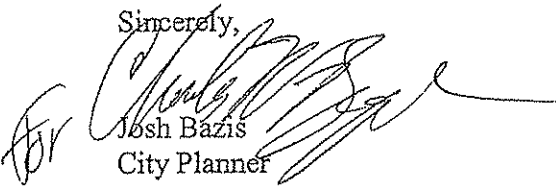
- Limited tractor-trailer deliveries/pickup of no more than 1 per week.
- Waste collection and disposal will be of the same nature and volume as a restaurant.
- Noise production shall be governed by the City's noise ordinance.

If you have any further questions please don't hesitate to call me at (301) 694-4588 or email me at jbazis@cityoffrederick.com.

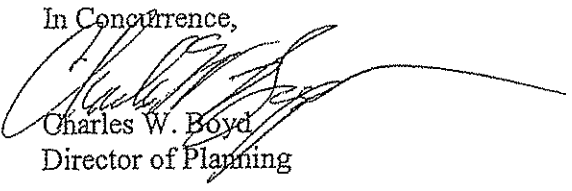
The purpose of the service provided by the Zoning Administrator regarding determinations/interpretations is to identify the zoning of a particular property, to verify that a use is permitted or permissible in a specific Zoning District and to clarify and interpret the Land Management Code. This determination cannot be used in isolation to address questions or the application of specific regulations to a particular site. It is the responsibility of the applicant, property owner and/or property purchaser to review the Land Management Code to make your own determination of compliance with a proposed site plan or subdivision plat. The Planning and Community Development Department will not make official determination of compliance of a proposed site plan or subdivision plat until a complete application is submitted.

This determination applies solely to the referenced property and is not binding upon the City, the Zoning Administrator or any other official with respect to any other property. No person may rely upon this determination with respect to any property other than the referenced property. Please be advised that any person aggrieved, or any officer, department or agency of The City of Frederick affected by an order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of the provisions of the Zoning Ordinance may appeal said decision within thirty days to the Zoning Board of Appeals.

Sincerely,


Josh Bazis
City Planner

In Concurrence,


Charles W. Boyd
Director of Planning

cc: Catherine T. Parks, Division Manager of Current Planning
Chron File
✓ DET 05-489

SUPPLEMENTAL JUSTIFICATION STATEMENT- ROHRERSVILLE VINEYARDS, LLC

Subsequent to the submission of its original Justification Statement, the Applicant, Rohrersville Vineyards, LLC was advised by Staff that Section 857 of the Land Management Code ("LMC") had been amended. The Applicant was not aware of the amendment as it had not yet been published as an update to the LMC. The Applicant provides the following additional information to address the minor amendments made to the Section 857 of the LMC. Unless otherwise noted in this Supplemental Justification Statement the information set forth in the Applicant's original Justification Statement remains unchanged.

Revised Section 857 Criteria:

(a) A winery shall comply with all regulations of the Maryland Annotated Code, Article 2B, and the Frederick County Alcoholic Beverages Regulations, including but not limited to any licensing provisions, and shall submit copies of all such licenses with the Conditional Use Application.

As was the case with Frederick Cellars, LLC, Rohrersville Vineyards, LLC maintains a winery-manufacturing license from the federal government and the State of Maryland which were attached as **Exhibit 4** and **Exhibit 5** to the original Justification Statement.

(b) Except in the DB and MU zoning districts, the closest point of a winery structure may not be located less than 500 feet from a residentially zoned lot. The Board may waive this criteria if the applicant demonstrates that adequate screening or buffering will be provided by other commercial structures, roadways, or trees to ensure the winery will not have a substantial adverse impact on adjacent neighborhoods or residential properties.

The property is zoned DB and is exempt from the distance requirement.

(c) Live entertainment, retail sales, tasting rooms, food service are permitted as part of the winery operations, however, area dedicated to these uses cannot comprise more than a total of 40% of the total square footage of a winery.

i. Entertainment -The Board will specify in its approval of a winery the type of entertainment and days of the week and hours of the day in which entertainment is to be performed. Entertainment which includes sexual conduct, nudity, or obscenity is prohibited.

Rohrersville Vineyards, LLC will continue to operate the winery in compliance with the Site Plan which devotes only 30% of the building to retail sales, tastings and events. Rohrersville Vineyards, LLC does not propose to alter the type of entertainment to be performed or the days of the week and hours of the day in which entertainment is to be performed as per the prior approval for this location. As per the ZBA Approval entertainment was approved for Sunday-Thursday until 10:00 p.m.; Friday and Saturday until midnight; and New Year's Eve until 1:00 a.m. In addition, the ZBA Approval imposed an additional condition that the business shall have no outside speakers and shall operate with closed doors while having entertainment. The Applicant is willing to accept these conditions as part of any approval granted and the Applicant will comply with the schedule for entertainment previously imposed by the ZBA. The Applicant is not aware of any complaints from neighbors regarding these days and times for entertainment. The type of entertainment which was conducted by the previous owner is proposed to continue with the Applicant's operation. The entertainment consists of live performance of jazz, folk, blues and classical music. A majority of the music will be performed acoustically but on some occasions, amplified music may be performed; however the Applicant does not intend to include rock music or other similar heavily amplified music to be performed.

(d) The application for a winery as a conditional use must include a scaled building floor plan showing all components of the winery operations and the square footages of each area. The floor plan must depict the following: ingress and egress points, manufacturing, storage, parking and loading, offices, public areas for tours, tasting, events, restrooms, and retail sales. Any areas outside the building (patios, terraces, plazas, etc.) to be used for events and tastings must also be shown and the dimension of these areas provided.

Attached hereto as Exhibit 2 is the floor plan previously approved as part of the 2008 ZBA Approval which was deemed sufficient by the City Fire Engineer for a maximum occupancy load of 105 people. The applicant does not propose any changes to the floor plan.

(e) The applicant shall provide guarantees as deemed necessary by the Board that the winery will not constitute a nuisance because of noise or other activities associated with the use.

The winery has operated without incident since its approval. As noted in the Staff Report the Board has the option to revisit the conditional use if the activities associated with the use merit a status update.

(f) Special events at a winery are permitted in all zoning districts in accordance with the temporary use provisions of Section 867 for public assemblies. Prior to each event, the Applicant must obtain a zoning permit from the Building Department. The permit application must demonstrate that appropriate on or off-site parking arrangements have been made for event parking. The Applicant must also demonstrate that the special event will not have a substantial adverse impact on the adjacent properties. In residential districts or on properties abutting residential zoning districts, no more than for special events per year are permitted.

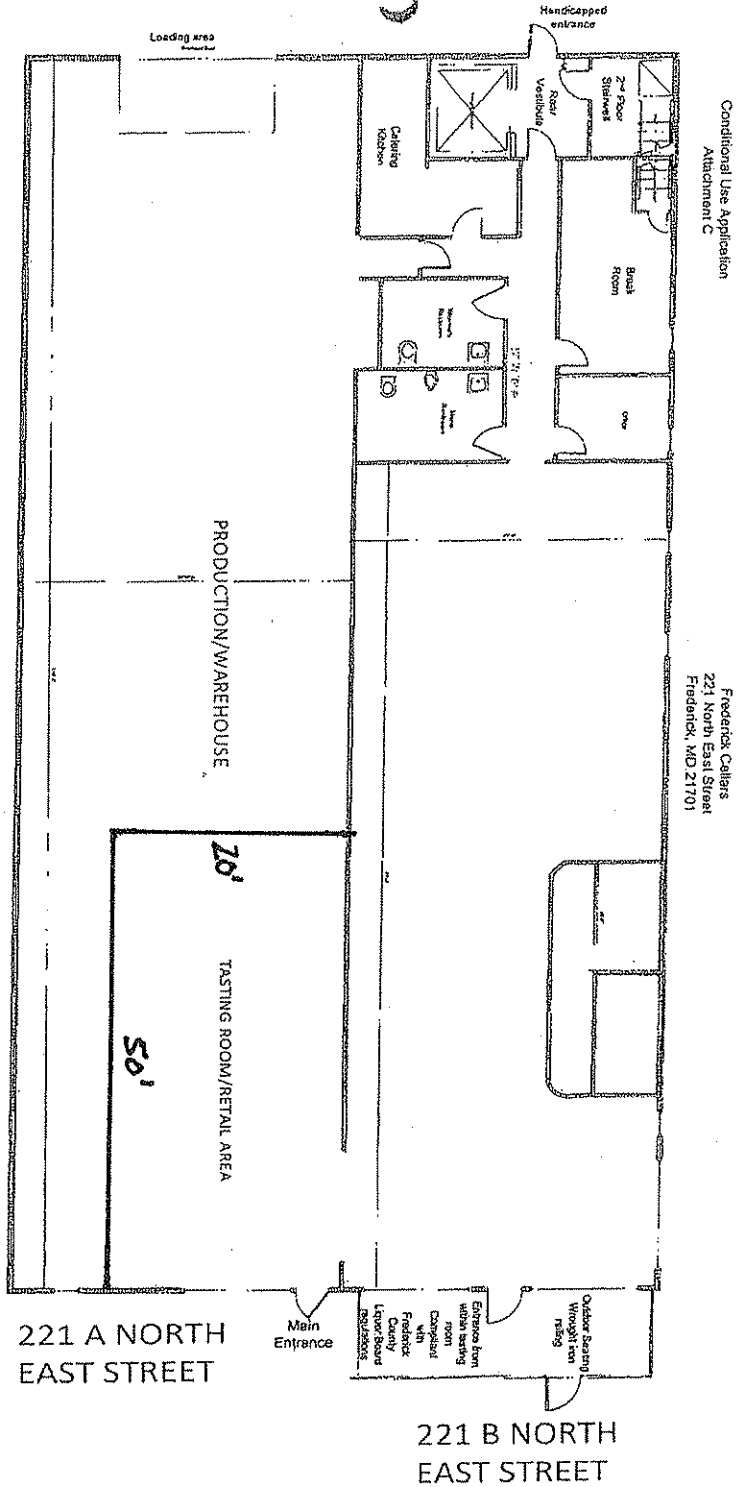
The Applicant is acknowledges that special events require a temporary use permit and that prior to each event, the Applicant must obtain a zoning permit from the Building Department. The permit application must demonstrate that appropriate on or off-site parking arrangements have been made for event parking. Lastly, the Applicant acknowledges that for each special event proposed, the Applicant must demonstrate that the special event will not have a substantial adverse impact on the adjacent properties and that because the property abuts a residential zoning district, Applicant acknowledges that not more than four special events per year are permitted.

Respectfully Submitted,

By: 

Scott D. Miller, Esq.
General Counsel for
Rohrersville Vineyards, LLC,
Applicant

EXHIBIT 2



Building Dimensions:
Building is 2 floors. 2nd floor is currently unoccupied
Total Square Footage: 11,836 sq. ft.
Total Square Footage 221 A North East Street: 3,390 sq. ft.
Tasting Room/Retail Total Size: 20x50 = 1,000 sq. ft.
Percentage Tasting Room/Retail to Total Area = 1,000/3,390 = 29.5%

**THE CITY OF FREDERICK
MAYOR AND BOARD OF ALDERMEN**

ORDINANCE NO: G-12-04

LEGISLATIVE HISTORY

PLANNING COMMISSION

PUBLIC HEARING: December 12, 2011

**RESOLUTION SUBMITTED
TO MAYOR & BOARD:** January 17, 2012

MAYOR & BOARD OF ALDERMEN

WORKSHOP: January 4, 2012

PUBLIC HEARING: February 2, 2012

AN ORDINANCE concerning

Wineries

FOR the purpose of amending the criteria required for wineries as a conditional use and for amending the parking standards applicable to wineries.

BY repealing and reenacting, with amendments,

Section 857
Appendix A, "Land Management Code"
The Code of the City of Frederick, 1966 (as amended)

BY repealing and reenacting, with amendments,

Section 607
Appendix A, "Land Management Code"
The Code of the City of Frederick, 1966 (as amended)

SECTION 1. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK that The Code of the City of Frederick, 1966 (as amended), Appendix A, "Land Management Code", Section 857 Winery, be repealed and reenacted, with amendments, as follows:

Sec. 857 WINERY

A winery is permitted as a conditional use in certain zoning districts as specified in the Use Matrix - Table 404-1 and subject to compliance with the [following] criteria set forth in this section.

- (a) A winery shall comply with all regulations of the Maryland Annotated Code, Article 2B, and the Frederick County Alcoholic Beverages Regulations, including but not limited to any licensing provisions, and the applicant shall submit copies of all such licenses with the conditional use application.
- (b) Except in the DB and MU zoning districts, the closest point of a winery structure may not be located less than 500 feet from a residentially zoned lot. The Board may waive this criteria if the applicant demonstrates that adequate screening or buffering will be provided by other commercial structures, roadways, or trees to ensure the winery will not have a substantial adverse impact on adjacent neighborhoods or residential properties.
- [(c)] No more than forty (40%) percent of the total facility square footage may be used for accessory components of the operation including retail sales, tasting, and events.]
- (c) Live entertainment, retail sales, tasting rooms, food service are permitted as part of the winery operations, however, area dedicated to these uses cannot comprise more than a total of 40% of the total square footage of a winery.
 - i. Entertainment – The Board will specify in its approval of a winery the type of entertainment and days of the week and hours of the day in which entertainment is to be performed. Entertainment which includes sexual conduct, nudity, or obscenity is prohibited.
- (d) The application for a winery as a conditional use must include a scaled building floor plan showing all components of the winery operations [shall be submitted with the application along with] and the square footages of each area. [Such]The floor plan [shall depict at a minimum] must depict the following: ingress and egress points, manufacturing, storage, parking and loading, offices, public areas for tours, tasting, events, restrooms, and retail sales. Any areas outside the building (patios, terraces, plazas, etc.) to be used for events and tastings must also be shown and [dimensioned.] the dimension of these areas provided.
- [(e)] Parking as required in § 607 shall be provided and it must be demonstrated that such parking will not have a substantial adverse impact on the adjacent neighborhood or properties.]
- [(f)] Live entertainment is permitted. Entertainment which includes sexual conduct, nudity, or obscenity is prohibited. In the application, the applicant shall specify the type of entertainment and days of the week and hours of the day in which entertainment is to be performed.]
- [(g)](e)The applicant shall provide guarantees as deemed necessary by the [ZBA] Board that the winery will not constitute a nuisance because of noise or other activities associated with the use. [See LMC Section 319].

(h) Noise levels generated by the operation of the winery may not exceed the levels set forth in § 15-21 et. seq. of the Frederick City Code.]

(f) Special events at a winery are permitted in all zoning districts in accordance with the temporary use provisions of Section 867 for public assemblies. Prior to each event, the Applicant must obtain a zoning permit from the Building Department. The permit application must demonstrate that appropriate on or off-site parking arrangements have been made for event parking. The Applicant must also demonstrate that the special event will not have a substantial adverse impact on adjacent properties. In residential districts or on properties abutting residential zoning districts, no more than four special events per year are permitted.

SECTION 2. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK that The Code of the City of Frederick, 1966 (as amended), Appendix A, "Land Management Code", Section 607, Table 607-1 Parking Schedule, be repealed and reenacted, with amendments, by changing the "winery" row as follows:

Sec. 607 Parking and Loading Standards

Table 607-1 Parking Schedule


Use	Parking		Minimum Bicycle Parking
	Minimum Parking Spaces	Maximum Parking Spaces	
Winery	1 per [75 sf] <u>500 s.f.</u>	1 per [50 sf] <u>75 s.f.</u>	1 per 10 vehicle spaces

SECTION 3. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK that in the event any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

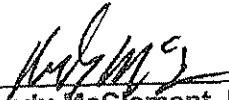
SECTION 4. This Ordinance shall take effect on February 12, 2012, and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

NOTE: [Bold Brackets] indicate material deleted
Underlining indicates material added

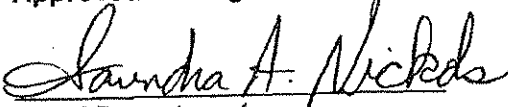
APPROVED: February 2, 2012

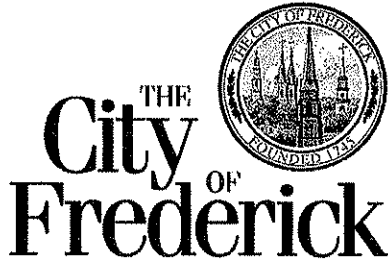

Randy McClement, Mayor

PASSED: February 2, 2012


Randy McClement, President,
Board of Aldermen

Approved for Legal Sufficiency:


Legal Department



For Official Use Only	
ZBA Case Number:	
Hearing Date:	
Ad Date:	
Amount Paid:	\$
Date Paid:	

Planning Department * 140 W. Patrick Street * Frederick, Maryland 21701 * 301.600.1499

ZONING BOARD OF APPEALS CONDITIONAL USE APPLICATION

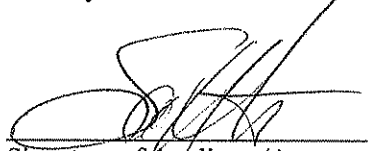
Please legibly print or type the following application in its entirety. Incomplete applications will not be accepted. **Submit the twelve (12) copies** of this application, and any supporting information, along with appropriate fees, by 4:30 pm on the application deadline date.

APPLICANT INFORMATION - OWNER'S AFFIDAVIT MUST BE SUBMITTED WITH APPLICATION.	
Contact Name: Scott D. Miller, Esq.	
Firm/Company: Rohrsersville Vineyards, LLC	
Address: 1850 Dual Highway, Suite 203, Hagerstown, MD 21740	
Phone: 301-302-8169	email: smiller@thompsongas.com
OWNER INFORMATION	
Name: William B. Anderson	
Firm/Company: 221 N. East Street, LLC	
Address: 125 North East Street, Frederick, MD 21701	
Phone:	email:
TYPE OF CONDITIONAL USE	
Please complete the appropriate section.	
Home Occupation LMC Section 829	Name of Business: _____ Type of Business: _____ Description of Business: _____
Other LMC Section 8 Section 857	Name of Use: Winery _____ Type of Use: Winery _____ Description of Use: Winery

PROJECT INFORMATION		
Project Location: 221 A North East Street, Frederick, MD (Street Address)		
Current Zoning: Downtown Business (DB)		
Current Use: Winery		
FEES		
Type of Review	Fee	Total
Conditional Use Home Occupation	\$100.00	
All other Conditional Uses	\$650.00	650.00
JUSTIFICATION FOR CONDITIONAL USE		
<p><i>LMC Section 308(c) states that "The Zoning Board of Appeals may authorize conditional uses only when the Board finds that the following conditions exist."</i></p> <p><i>(Please respond to each condition statement in the area provided - use additional paper if necessary.)</i></p>		
<p>1. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and this Code. See attached Justification Statement</p>		
<p>2. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval. See attached Justification Statement</p>		
<p>3. That the proposed activity will comply with all conditions and requirements set forth in this code, including any specific standards established in Article 8 of this Code <i>(see 1-6 below for home occupations)</i>. See attached Justification Statement</p>		
<p>FOR HOME OCCUPATION APPLICATIONS ONLY:</p> <p><i>LMC Section 829(c) states that "Home occupations are permitted as a conditional use in all R, all D, NC and GC districts if all of the following conditions and requirements are met:"</i></p> <p><i>(Please respond to each condition statement in the area provided - use additional paper if necessary.)</i></p>		
<p>(1) The applicant must provide guarantees that the use of a property as a home occupation will not constitute a nuisance because of increased pedestrian or vehicular traffic, noise, or other activity associated with the use of the dwelling for business purposes which may be disruptive to the residential character of the neighborhood.</p>		

(2) A home occupation must be secondary to the residential use of the property and shall be conducted totally within the dwelling. Not more than 20 percent of the floor area of the dwelling or 300 square feet, whichever is greater, may be devoted to a home occupation.
(3) Only one (1) person who is not a resident of the dwelling may be employed/work/volunteer on site in conduct of a home occupation.
(4) A home occupation may not result in any external evidence that a building is being used for any purpose other than a dwelling.
(5) Except for the permitted employee who may be employed, a home occupation may result in no vehicular traffic, except for a maximum of one (1) daily local home delivery from services such as UPS or FedEx, and in no case shall result in delivery by tractor-trailer trucks.
(6) If deemed appropriate, the Board may permit a home occupation for a specified period of time with periodic review and approval required to ensure conformity with the conditions and requirements.

I hereby attest that the information provided on and attached to this application is complete and correct.



Signature of Applicant/Agent
SCOTT D. MILLER, ESQ.

3/18/12

Date

AGENT AUTHORIZATION LETTER

I / WE, William B. Anderson, sole member, representing
(Individual's name -- please type or print in ink)

221 N. East Street, LLC

(Corporate name, if applicable)

being the current owner(s) of the property legally described as follows: 221 North East Street, Frederick, MD

do hereby designate and authorize Scott D. Miller, Esq., David Collins and J. Randall Thompson

(Individual's name -- please type or print in ink)

representing, Rohrersville Vineyards, LLC

(Corporate name, if applicable)

to act as my / our agent in applying to the City of Frederick for Conditional Use as a Winery in the DB Zoning District

approval in conjunction with the

_____ project involving the property described above, and to sign on my / our behalf all application forms and other documents which may be necessary for this purpose.


(Signature of property owner)

William B. Anderson

(Type or print name of signatory)

Sole Member, 221 N. East Street, LLC

(Title and corporate name, if applicable)

All correspondence will be sent to the applicant. If the owner also wishes to receive a copy, please check box: ☐

State of Maryland, County of Frederick

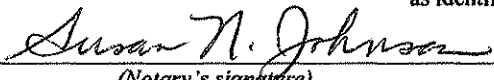
The foregoing indenture was acknowledged before me this

12th day of March, 20 13

by William B. Anderson

who is personally known to me, or who has produced

_____ as identification, and who did / did not take an oath.

, Notary Public, State of Maryland
(Notary's signature)

Commission No. n/a My Commission Expires: May 11, 2013

Name of notary (typed, printed, or stamped) Susan N. Johnson

JUSTIFICATION STATEMENT- ROHRERSVILLE VINEYARDS, LLC

On or about January 18, 2013, Rohrersville Vineyards, LLC purchased the assets of Frederick Cellars, LLC which operated the winery located at 221 North East Street, Frederick, Maryland. On July 28, 2008, Frederick Cellars, LLC obtained a conditional use approval for a winery pursuant to Section 857 of the Land Management Code ("LMC"). A copy of the Zoning Board of Appeals approval (Case # 08-351) is attached hereto as **Exhibit 1** (the "ZBA Approval"). Since the conditional use approval was obtained, Frederick Cellars, LLC has continued to operate the winery at 221 North East Street, Frederick, Maryland consistent with the terms of the ZBA Approval. The ZBA Approval included approval to have entertainment Sunday-Thursday until 10:00 p.m.; Friday and Saturday until midnight; and New Year's Eve until 1:00 a.m.

Rohrersville Vineyards, LLC has and intends to continue operating the winery at 221 North East Street, Frederick, Maryland utilizing the same floor plan, hours of operation and parking arrangements as was presented and approved pursuant to the ZBA Approval. Despite its plans to operate as currently approved, Section 308 of the LMC does not allow the ZBA Approval to transfer to Rohrersville Vineyards, LLC, thus Rohrersville Vineyards, LLC files this application seeking re-approval of the ZBA approval.

Attached to this application and marked **Exhibit 2** is the floor plan approved as part of the ZBA Approval which will remain in place as well as a copy of the Staff Report for Case # 08-351 dated July 22, 2008 which is attached hereto as **Exhibit 3** (the "Staff Report") which outlines the criteria for approval and the facts supporting satisfaction of each criteria which is incorporated herein by reference as if fully set forth herein.

In supplement to the ZBA Approval, the Floor Plan and the Staff Report, the applicant submits the following in support of its application:

1. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and the Zoning Ordinance.

Site Plan 07-461 FSI (the "Site Plan") remains valid and Frederick Cellars, LLC and now Rohrersville Vineyards, LLC remain in compliance therewith. The property is zoned DB and a Winery remains a conditional use permitted in the DB zone.

2. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.

Entertainment has been a component of the use since its approval on July 28, 2008 without incident or known complaint.

3. That the proposed activity will comply with all conditions and requirements set forth in this Code, including any specific standards established in Article 8 of this Code.

See following response to Section 857 Criteria in supplement to the ZBA Approval, the Floor, Plan Site and the Staff Report. As evidenced by the ZBA Approval, the winery operation at 221 N. East Street, Frederick, MD was previously found to comply with all conditions and requirements of the LMC.

Section 857 Criteria:

(a) A winery shall comply with all regulations of the Maryland Annotated Code, Article 2B, and the Frederick County Alcoholic Beverages Regulations, including but not limited to any licensing provisions, and shall submit copies of all such licenses with the Conditional Use Application.

As was the case with Frederick Cellars, LLC, Rohrersville Vineyards, LLC maintains a winery-manufacturing license from the federal government and the State of Maryland attached hereto as **Exhibit 4** and **Exhibit 5** respectfully.

(b) Except in the DB and MU zoning districts, the closest point of a winery structure may not be located less than 500 feet from a residentially zoned lot.

The property is zoned DB and is exempt from the distance requirement.

(c) No more than forty (40%) percent of the total facility square footage may be used for accessory components of the operation including retail sales, tastings, and events.

Rohrersville Vineyards, LLC will continue to operate the winery in compliance with the Site Plan which devotes only 30% of the building to retail sales, tastings and events.

(d) A scaled building floor plan showing all components of the winery operations shall be submitted with the application along with the square footages of each area. Such plan shall depict at a minimum the following: ingress and egress points, manufacturing, storage, parking and loading, offices, public areas for tours, tasting, events, restrooms, and retail sales. Any areas outside the building (patios, terraces, plazas, etc.) to be used for events and tastings must also be shown and dimensioned.

Attached hereto as Exhibit 2 is the floor plan previously approved as part of the 2008 ZBA Approval which was deemed sufficient by the City Fire Engineer for a maximum occupancy load of 105 people. The applicant does not propose any changes to the floor plan.

(e) Parking as required in § 607 shall be provided and it must be demonstrated that such parking will not have a substantial adverse impact on the adjacent neighborhood or properties.

The same parking available on the site and off-site remain available for use for this use. The parking on the site and off-site were determined to be adequate for the use.

(f) Live entertainment is permitted. Entertainment which includes sexual conduct, nudity, or obscenity is prohibited. In the application, the applicant shall specify the type of entertainment and days of the week and hours of the day in which entertainment is to be performed.

Entertainment was approved pursuant to the ZBA Approval for Sunday-Thursday until 10:00 p.m.; Friday and Saturday until midnight; and New Year's Eve until 1:00 a.m. In addition, the ZBA Approval imposed an additional condition that the business shall have no outside speakers and shall operate with closed doors while having entertainment. The applicant is willing to accept this additional condition as part of any approval granted and the applicant will comply with the schedule for entertainment previously imposed by the ZBA. The applicant is not aware of any complaints from neighbors regarding these days and times for entertainment.

(g) The applicant shall provide guarantees as deemed necessary by the ZBA that the winery will not constitute a nuisance because of noise or other activities associated with the use. See LMC Section 319.

The winery has operated without incident since its approval. As noted in the Staff Report the Board has the option to revisit the conditional use if the activities associated with the use merit a status update.

(h) Noise levels generated by the operation of the winery may not exceed the levels set forth in § 15-21 et. seq. of the Frederick City Code.

To applicant's knowledge, noise levels generated by the operation of the winery have not exceeded the levels set forth in the Frederick City Code. Applicant's operations will not differ from prior operations and thus should remain compliant with Frederick City Code noise limitations.

EXHIBIT 1

William J. Holtzinger
Mayor



Aldermen

Marcia A. Hall
President Pro Tem

David "Kip" Koontz
Alan E. Imhoff
C. Paul Smith
Donna Kuzemchak
Ramsburg

ZONING BOARD OF APPEALS Findings and Decisions

WHEREAS, application 08-351CU was filed by Charles Daneri for approval of a conditional use for a Winery at 221 N. East Street, according to Section 857 of the Land Management Code, and

WHEREAS, a public hearing for said request was duly advertised and held on July 22, 2008, at which time the Applicant appeared and presented this request, and

WHEREAS, after considering all evidence and testimony presented at said hearing, and the Board having inspected the premises, the Zoning Board of Appeals makes the following findings of fact:

- The business holds all necessary jurisdictional wine license in order to operate a Winery;
- The area for the accessory components do not exceed 40% of the total facility; and
- The floor plan has been approved by the Fire Engineer for the business as proposed;

THEREFORE BE IT RESOLVED, that based upon all these findings, the City of Frederick Zoning Board of Appeals hereby approves the Winery conditional use for Frederick Cellars at 221 N. East Street, according to Section 857 of the Land Management Code, with the following conditions:

- The business shall have no outside speakers and operate with closed doors while having entertainment; and
- The permitted hours of entertainment shall be as follows: Sunday – Thursday until 10:00 p.m.; Friday and Saturday until midnight; and New Year's Eve until 1:00 a.m.

Said action regarding the application for a Winery conditional use for Frederick Cellars at 221 N. East Street was approved by a vote of 4-0 on July 22, 2008 on a motion by Gail Colby; Seconded by Kelly Russell.

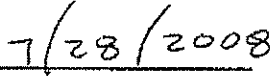
With this letter of approval, the applicant shall apply for a Zoning Certificate for a Winery. Please be advised that this approval does not transfer to subsequent tenants or owners of the subject property per Section 308(a)(2).

NOTICE OF RIGHT TO APPEAL

Pursuant to Maryland Law, any person aggrieved by any decision of the Zoning Board of Appeals or any taxpayer or officer, department, or board of the City may seek recourse from the decisions of the Zoning Board of Appeals to the Circuit Court, as provided by law. All appeals must be filed within thirty (30) days of the date of the decision rendered on July 22, 2008.



Jim Racheff - ZBA Chairman



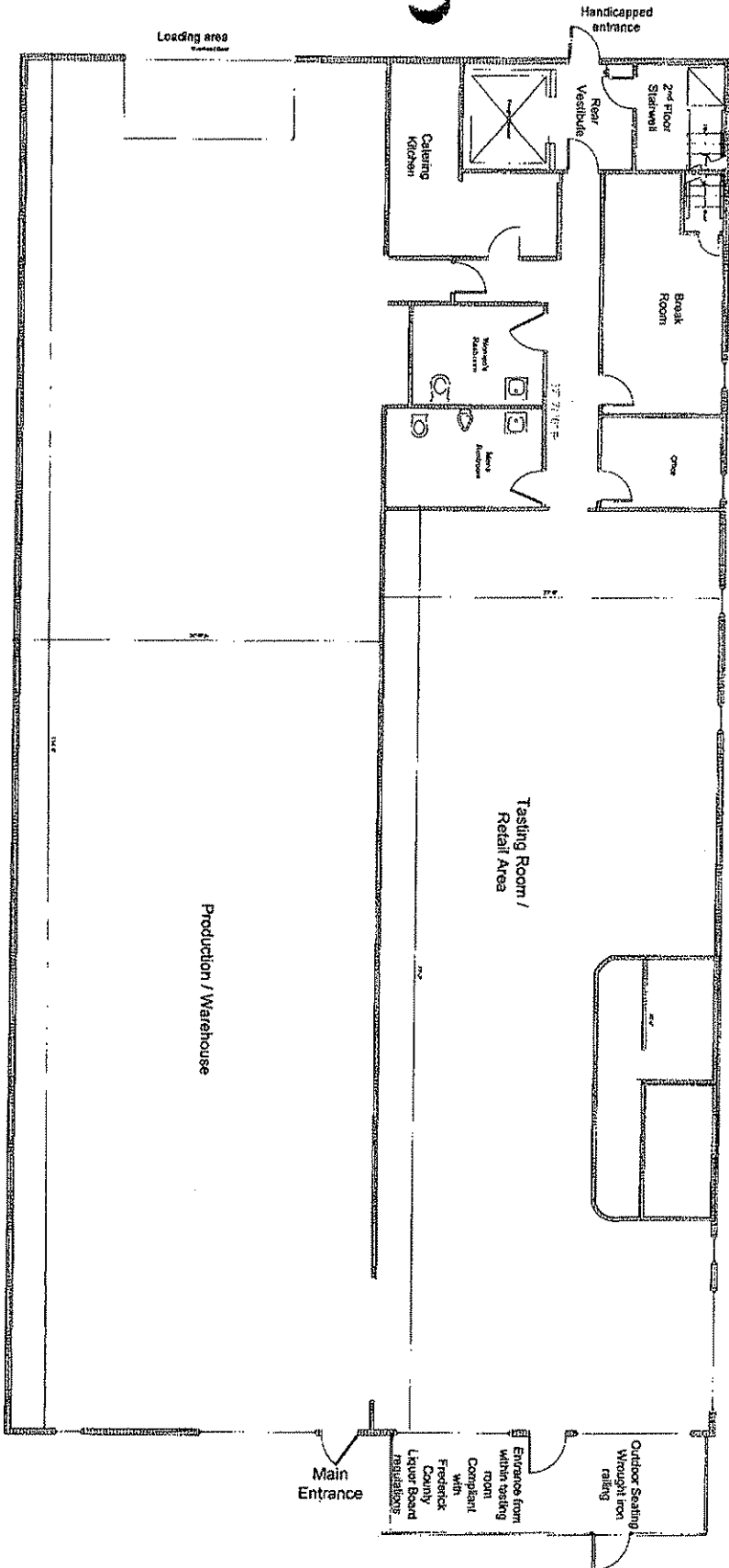
Date

Cc: Bert Anderson, 221 East LLC, 125 N. East St., Frederick, MD 21701

EXHIBIT 2

Conditional Use Application Attachment C

Frederick Cellars
221 North East Street
Frederick, MD 21701



Building Dimensions:

Building is 2 floors, 2nd floor is currently unoccupied

Total Square footage: 11,836 sq ft

Retail Sales / Tasting Room / Events - 2,100 sq ft (17.5 %)

Production / Warehouse - 3,390 sq ft

Office / Restrooms/ Kitchen / Break room - 1,290 sq ft

2nd floor (unoccupied) - 5,156

Outdoor seating area- 13 x 28 = 364 sq ft

EXHIBIT 3

CITY OF FREDERICK BOARD OF ZONING APPEALS PROJECT STAFF REPORT

July 22, 2008

PROJECT INFORMATION

NAME OF PROJECT: 221 N EAST ST
TYPE OF PROJECT: BZA CONDITIONAL USE
CASE NUMBER: 08-351

OWNER: Bert Anderson, 221 East, LLC
PROJECT ADDRESS: 125 N. East St, Frederick, MD 21701

APPLICANT: Charles Daneri, Frederick Cellars
PHONE: 301-668-0311
ZONING: DB, Downtown Business

REVIEW BY: Pamela Reppert
DATE: July 16, 2008 (Revised July 22, 2008)

PROPOSED ACTION: Applicant requests approval of a conditional use for a Winery at 221 N. East Street, in accordance with LMC Section 857.

BACKGROUND INFORMATION

The subject property, zoned DB (Downtown Business), was previously approved for a winery and retail business which included storage ability and processing operation under staff level site plan 05-674FSI. Subsequently, permit number 06-642 was issued for "interior renovation for use as a small commercial winery" and Frederick Cellars opened in October 2006 as a Winery. When granted approval as a winery retail store under first site plan 05-674, the site proposed processing and wholesale distribution and retail sales. The functional uses were compared to retail sales; grocery store or bakery; beer, wine and liquor store; or food and beverages as noted in the attached Zoning Determination dated 9/27/05. Through confusion as to what this applicant desired for the Winery business, it was determined a need in the LMC to define a Winery in the Use Matrix, to include reception events and the ability to have live entertainment. Consequently, City staff processed a text amendment to Article 8 for a Winery as a conditional use. The text amendment was approved by the Planning Commission and Mayor and Board of Alderman

STAFF COMMENTS & ANALYSIS

Section 308 of the City of Frederick Land Management Code allows the Board of Zoning Appeals to authorize conditional uses included in Article 8 of the Land Management Code only when the Board finds that all of the following conditions exist:

1. **The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and this Zoning Ordinance.**

Applicant responds: *The applicant has presented the site plan 07-461FSI as proof that the Planning Commission approved the plan including all proposed uses for the Winery except live entertainment.*

1. Staff responds: The site plan as approved is considered in compliance with our Ordinances and regulations.

2. **The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring special exception approval.**

Applicant responds: *... From December 2006 through March 2007, 13 musical groups have performed in the Winery. These were local groups and most were acoustic or low volume amplification ... Music was usually provided on the weekends between the hours of 6:00 – 8:30 pm ... A large number of our patrons live in the immediate area and walk to the Winery. ... part of the downtown community and are members of the Everedy Square/Shab Row merchants association. ... In 2007, the Frederick County Department of Economic Development ... create the Frederick Wine Trail ... Frederick Cellars is the keystone of the wine trail and draws many travelers into the City who might otherwise stay in the more rural winery locations throughout the county. These tourist dollars benefit all Frederick residents, including the winery's immediate neighbors.*

Staff responds: Staff agrees that the Winery is a flourishing business and involved in the success of the Frederick downtown and events. After hearing testimony, the Board shall deliberate on the degree of impact the Winery shall have on its neighborhood. The Winery has been compared various times to a Restaurant with Entertainment, which is also a conditional use in the DB zoning district.

3. **That the proposed activity will comply with all conditions and requirements set forth in Section 857 of the LMC.**

A Winery is permitted as a conditional use in certain zoning districts as specified in the Use Matrix - Table 404-1 and subject to compliance with the following criteria:

- 1) A winery shall comply with all regulations of the Maryland Annotated Code, Article 2B, and the Frederick County Alcoholic Beverages Regulations, including but not limited to any licensing provisions, and shall submit copies of all such licenses with the Conditional Use Application.

Applicant responds: *Frederick Cellars maintains a winery-manufacturing license from the Federal government and the State of Maryland. They also maintain a Class A Light Wine license from Frederick County.*

Staff responds: The licenses need to be maintained in order to continue their business within the City.

- 2) Except in the DB and MU zoning districts, **the closest point of a winery structure** may not be located less than 500 feet from a residentially zoned lot.

Applicant responds: *N/A*

Staff responds: Agree. The property is zoned DB and is exempted from the distance requirement.

- 3) No more than forty (40%) percent of the total facility square footage may be used for accessory components of the operation including retail sales, tastings, and events.

Applicant responds: *Less than 1,800 feet of the 11,000 s.f. building is used for retail sales, tastings and events.*

Staff responds: Per site plan 07-461FSI, the total building structure is 11,936 s.f. and the retail, service and reception area is 3,581 s.f., which equals 30% of building is being used for the accessory components of the operation.

- 4) A scaled building floor plan showing all components of the winery operations shall be submitted with the application along with the square footages of each area. Such plan shall depict at a minimum the following: ingress and egress points, manufacturing, storage, parking and loading, offices, public areas for tours, tasting, events, restrooms, and retail sales. Any areas outside the building (patios, terraces, plazas etc.) to be used for events and tastings must also be shown and dimensioned.

Applicant responds: See attachment C floor plan.

Staff responds: *The City Fire Engineer has reviewed the floor plan and finds it sufficient for the maximum occupant load for the facility of 105 persons (see Fire Comments attached).*

- 5) Parking as required in §607 shall be provided and it must be demonstrated that such parking will not have a substantial adverse impact on the adjacent neighborhood or properties.

Applicant responds: The building has 13 on-site parking spaces. In addition, Frederick Cellars is part of the Everedy Square/Shab Row shopping district and has a recorded agreement in place from Bert Anderson to use the 4 parking lots that are part of that complex and within one block.

Staff responds: With site plan 07-461FSI approval, the Planning Commission had concern of adequate parking for this business, especially with operating as a reception facility and holding special events. Therefore, it was a condition of approval to have additional off-site parking available for the site. However, at this time, the site plan enforcement agreement containing the off-site provision has not been recorded. Therefore, staff recommends a condition of approval for the conditional use would be to have the site plan enforcement agreement with the off-site provision recorded. An unrecorded copy of the agreement is attached.

- 6) Live entertainment is permitted. Entertainment which includes sexual conduct, nudity, or obscenity is prohibited. In the application, the applicant shall specify the type of entertainment and days of the week and hours of the day in which entertainment is to be performed.

Applicant responds: Frederick Cellars may provided entertainment during the hours it is allowed to operate under its Frederick County Class A Light Wine license, which is daily from 6:00 a.m. to 2:00 a.m. and Sunday from 1:00 p.m. to 12:00 midnight. . . the entertainment was typically conducted on Friday and Saturday evenings between the hours of 6 and 8:30 p.m. and Sunday between 2:00 p.m. and 6:00 p.m. Our intention is to continue this same type of operation, except for special occasions, such as New Year's Eve . . .

Staff responds: Staff reminds the Board that there has been neighborhood concern on the entertainment component of this operation. Staff would not recommend entertainment to follow the hours permitted under the Class A Light Wine license; plus, the applicant may want to propose hours a little more flexible or later than 6:00 or 8:30 p.m. Certainly, special holidays need some consideration and do not follow the normal business hours set throughout the year, as many retail merchants find. However, staff would not recommend extremely late hours as normal operating times.

- 7) The applicant shall provide guarantees as deemed necessary by the ZBA that the winery will not constitute a nuisance because of noise or other activities associated with the use. See LMC Section 319.

Applicant responds: Frederick Cellars has operated for over 20 months. They have maintained excellent relations with their residential and business neighbors.

Staff responds: At the time of site plan approval, there were a number of neighbors that turned out in support of the business. However, there has been some dissatisfaction in the neighborhood, as I stated before, in regard to the entertainment use. Staff believes that the business can compromise to the neighborhood satisfaction to continue to be good

compatibility in the neighborhood, if the entertainment, traffic or parking concerns merit a status update.

- 8) Noise levels generated by the operation of the winery may not exceed the levels set forth in § 15-21 et seq. of the Frederick City Code. .

Applicant responds: : The type of entertainment (as proposed) will not create noise levels above those permitted by the Frederick City Code.


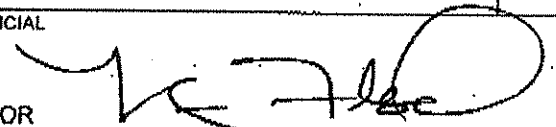
Staff responds: As any business, the business must comply within regulations of the Frederick City Code.

STAFF RECOMMENDATION

Staff recommends approval of the Winery conditional use for 221 N. East Street for the tenant Frederick Cellars in accordance with Section 857, finding that:

- The business holds all necessary jurisdictional wine license in order to operate a Winery;
- The area for the accessory components do not exceed 40% of the total facility;
- The floor plan has been approved by the Fire Engineer for the business as proposed;
- This approval is conditioned upon recordation of the 07-461FSI Site Plan Enforcement Agreement with the provision of off-site parking provided and maintained for the business;
- The hours of operation shall be as follows:

EXHIBIT 4

DEPARTMENT OF THE TREASURY ALCOHOL AND TOBACCO TAX AND TRADE BUREAU BASIC PERMIT (Under Federal Alcohol Administration Act)		1. PERMIT NUMBER MD-W-15050
		2. DATE OF PERMIT FEB 08 2012
5. NAME AND ADDRESS OF PERMITTEE (Number and street, city or town, State and Zip Code) ROHRERSVILLE VINEYARDS, LLC dba BIG CORK VINEYARDS 221 A NORTH EAST STREET FREDERICK, MD 21701-5320		3. REGISTRY NUMBER (if applicable) BWN-MD-15049
6. TRADE NAMES AUTHORIZED BY THIS PERMIT (Trade name approval does not constitute approval as a brand name for labeling purposes. If needed, list on reverse or use continuation sheet.) * Used for Contract Bottling or Packaging/Branding Purposes		4. DATE OF APPLICATION December 30, 2011 
7. PERMIT GRANTED FOR (ONE TYPE OF OPERATION ONLY) Pursuant to the application of the date indicated in item 4, you are authorized and permitted to engage, at the above address, in the business of:		
a. <input type="checkbox"/> Distilled Spirits - <input type="checkbox"/> distiller <input type="checkbox"/> rectifier(processor) <input type="checkbox"/> warehouseman and/or <input type="checkbox"/> warehouseman and bottler and while so engaged, to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the distilled spirits so distilled or rectified, or warehoused and bottled, or the wines so rectified.		
b. <input checked="" type="checkbox"/> Wine - <input checked="" type="checkbox"/> producer and blender <input type="checkbox"/> blender and while so engaged, to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the wine so produced or blended.		
c. <input type="checkbox"/> Importer - importing into the United States the following alcoholic beverages: and while so engaged, to sell, offer to deliver for sale, contract to sell or ship, in interstate or foreign commerce, the alcoholic beverages so imported.		
d. <input type="checkbox"/> Wholesaler - Purchasing for resale at wholesale the following alcoholic beverages: and while so engaged, to receive or to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the alcoholic beverages so purchased.		
This Permit is conditioned upon your compliance with the Federal Alcohol Administration Act; the Twenty-first Amendment and laws relating to its enforcement; all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect to them; the Federal Water Pollution Control Act; and, all applicable regulations made pursuant to law which are now, or may hereafter be, in force.		
This basic permit is effective from the date shown above and will remain in force until suspended, revoked, annulled, voluntarily surrendered, or automatically terminated.		
THIS PERMIT WILL AUTOMATICALLY TERMINATE THIRTY DAYS AFTER ANY CHANGE IN PROPRIETORSHIP OR CONTROL OF THE BUSINESS, unless an application for a new basic permit is made by the transferee or permittee within the thirty day period. If an application for a new basic permit is timely filed, the outstanding basic permit will continue in effect until the application is acted on by the Director, Alcohol and Tobacco Tax and Trade Bureau.		
THIS PERMIT IS NOT TRANSFERABLE. ANY CHANGE IN THE TRADE NAME, CORPORATE NAME, MANAGEMENT OR ADDRESS OF THE BUSINESS COVERED BY THIS PERMIT, OR ANY CHANGE IN STOCK OWNERSHIP (MORE THAN 10%) MUST BE REPORTED TO THE NATIONAL REVENUE CENTER OR PUERTO RICO OPERATIONS OFFICE WITHOUT DELAY.		
THIS IS AN <input checked="" type="checkbox"/> ORIGINAL PERMIT <input type="checkbox"/> AMENDED PERMIT		
REASON FOR AMENDMENT		DATE OF AMENDMENT
SIGNATURE AND TITLE OF AUTHORIZED TTB OFFICIAL		
FOR JOHN J. MANFREDA, ADMINISTRATOR 		

OMB No. 1513-0009 (01/31/2013)

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)
APPLICATION TO ESTABLISH AND OPERATE WINE PREMISES

(See Instructions on next page)

1. SERIAL NUMBER
2011-1

2. DATE
1/9/11

3. REGISTRY NUMBER (Leave blank if "P" or "T") **BWIN-MD-15**

4. TO: DIRECTOR, NATIONAL REVENUE CENTER
 ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)
 550 Main St., Ste 8002, Cincinnati, OH 45202-5215

5. APPLICATION IS MADE TO OPERATE (Check one only)

☒ BONDED WINERY ☐ BONDED WINE CELLAR ☐ TAX PAID WINE BOTTLING HOUSE

6. NAME AND PRINCIPAL BUSINESS ADDRESS OF APPLICANT
 (Name and street, city, county, State, and ZIP Code)
 Rohrsersville Vineyards LLC
 4238 Main Street,
 Rohrsersville MD 21779

7. ADDRESS (Address where wine operations will occur.)
 (If different from address in Item 6)
 221 A N East Street
 Frederick MD 21701

PHONE # 301

EIN# 27-5248846

PHONE # 301 - 302-8166

8. PURPOSE FOR WHICH FILED (Such as original establishment, trade name change, alteration of premises)

Original: ☒ New Premises or change in Proprietorship ☒ Alternating Proprietorship with: Frederick Cellars, LLC

Amended for: ☐ Change in Location ☐ Change in Control (Date / /) ☐ Alternating Premises with:

☐ Change in information on application ☐ Change in Name of Proprietor or Trade Name ☐ Other: Please Specify

☐ Change in Officers

9. APPLICATION FORM AND ATTACHED STATEMENTS AND DOCUMENTS SHOWING REQUIRED INFORMATION IN ITEMS 1-8 ON REVERSE OF FORM

This application includes: (1) this form; (2) the papers and documents which are being submitted for the first time, and which are listed in Items 9A and 9B; (3) the current papers and documents from the latest approved TTB F 5120.25 Serial No. _____, which are listed in Items 9A-1 and 9B-1; and (4) the supporting organizational documents filed in connection with another establishment but incorporated in this application by reference, and listed below in Item 9C.

9A. NUMBER OF PAGES ATTACHED TO THIS FORM ()

PAGE NUMBERS 4

9A-1. PAGES FROM CURRENT APPROVED TTB F 5120.25 THAT REMAIN

PAGE NUMBERS

9B. ORGANIZATIONAL DOCUMENTS SUBMITTED WITH THIS FORM

(List each document)
 Application for Basic Permit
 Alternating Proprietorship Agreement
 Trade Name Application
 Rohrsersville Vineyards, LLC Charter

9B-1. ORGANIZATIONAL DOCUMENTS FILED WITH PRIOR
 APPROVED TTB F 5120.25 (List each document)

9C. ORGANIZATIONAL DOCUMENTS FILED IN CONNECTION WITH ANOTHER ESTABLISHMENT BUT INCORPORATED IN THIS APPLICATION BY REFERENCE (List each document, and show the name or plant number under which filed)
 Alternating Proprietorship Agreement

NO WINE MAY BE PRODUCED OR UNTAXPAID WINE RECEIVED UNTIL THE PREMISES AND OPERATIONS ARE APPROVED BY THE DIRECTOR, NATIONAL REVENUE CENTER.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE EXAMINED THIS APPLICATION AND, TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT IS TRUE, CORRECT, AND COMPLETE.

10. SIGNATURE
 David Collins - VP Operations

11. TITLE
 VP Operations

FOR TTB USE ONLY

APPLICATION IS

☒ APPROVED☐ DISAPPROVED

EFFECTIVE DATE

FEB 08 2012

SIGNATURE OF DIRECTOR, NATIONAL REVENUE CENTER

DATE

FEB 08 2012

TTB F 5120.25 (02/2011)

OMB No. 1513-0009 (01/31/2013)

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)
WINE BOND

(Submit duplicate originals. See additional instructions on page 3.)

REGISTRY NUMBER
(Leave blank if new applicant)

BWN-md-1504C

EFFECTIVE DATE

11/09/2011

PRINCIPAL/OBLIGOR NAME AND PREMISES ADDRESS
(Number, Street, City, State, ZIP Code)

Rohrersville Vineyards, LLC
221 A N East Street
Frederick, MD 21701

PRINCIPAL/OBLIGOR MAILING ADDRESS
(If different than Premises Address)

4238 Main Street
Rohrersville, MD 21779

BOND KIND (Select only one)

☒ ORIGINAL ☐ STRENGTHENING ☐ SUPERSEDING

EIN: 27-5248846

BOND COVERAGE (Select applicable box(es))

☒ OPERATIONS \$ 1,000.00 ☐ DEFERRAL \$ TOTAL PENAL SUM* \$ 1,000.00

****(Total Penal Sum equals OPERATIONS plus DEFERRAL Coverage on this bond. Deposited collateral must also equal Total Penal Sum.)***

BOND CATEGORY (Select only one category (i.e. 'Surety,' 'Cash,' or 'Treasury Note/Bond') and complete corresponding items to right of selection.)

<input type="checkbox"/> SURETY:	SURETY NAME	BOND NUMBER
----------------------------------	-------------	-------------

☒ CASH: CHECK NUMBER(S) (i.e. personal check, cashier's check, money order, etc.) 1001

<input type="checkbox"/> TREASURY NOTE/BOND**	TREASURY NOTE/BOND CUSIP NO.	TREASURY NOTE/BOND INTEREST RATE	%
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TREASURY NOTE/BOND MATURITY DATE TREASURY NOTE/BOND ISSUE DATE

**** This bond is secured by the Treasury collateral (T-Note) described above or by a T-Note resulting from reinvestment of the full proceeds from the T-Note described above. T-Note collateral reinvestment automatically will occur upon maturity, unless the obligor notifies TTB in writing at least 45 days prior to the maturity date that the T-Note proceeds should not be reinvested and the obligor requests this bond be terminated.**

Witness our hands and seals this 11th day of Nov, 20 11. Signed, sealed, and delivered in the presence of —

CORPORATIONS, PARTNERSHIPS, OR LLCs:

State in which principal obligor organized: Maryland

Impress principal/obligor's corporate or LLC seal or check the checkbox below

☒ The corporation/LLC has no seal.

By signing this document you acknowledge and agree to the terms and conditions described on page 2 of this form.

SURETY NAME

SURETY REPRESENTATIVE SIGNATURE

SURETY REPRESENTATIVE PRINTED NAME AND TITLE

☐ Alterations made on this bond before and after execution were made with the consent of the Principal _____ and Surety _____ OR Obligor _____

PRINCIPAL/OBLIGOR NAME

BY:

PRINCIPAL/OBLIGOR REPRESENTATIVE SIGNATURE

DAVID COLLINS, VP OPERATION
PRINCIPAL/OBLIGOR REPRESENTATIVE PRINTED NAME AND TITLE

PRINCIPAL/OBIAOR REPRESENTATIVE PRINTED NAME AND TITLE

SIGNATURE: ANTHONY V. J. DE SARD

SIGNATURE WITNESS 2 (Do not sign)

DIRECTOR, NATIONAL REVENUE CENTER APPROVAL: ON BEHALF OF THE UNITED STATES, I APPROVE THE FOREGOING BOND WHICH HAS BEEN EXECUTED IN DUE FORM IN COMPLIANCE WITH THE APPLICABLE LAWS, REGULATIONS, AND INSTRUCTIONS.

SIGNATURE OF AUTHORIZED OFFICIAL ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

DATE APPROVED _____

FEB 08 2012

License No. M4-01501

Motor-fuel, Alcohol and Tobacco Tax
Regulatory Division
Annapolis, Maryland

Class 4 Manufacturer's License – Limited Winery

THIS IS TO CERTIFY that

J. RANDALL THOMPSON, JENNIFER THOMPSON & DAVID COLLINS

FOR THE USE OF

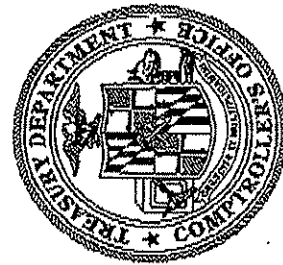
ROHRERSVILLE VINEYARDS LLC DBA BIG CORK VINEYARDS

221 A NORTH EAST STREET FREDERICK, MARYLAND 21701

is licensed by the STATE OF MARYLAND to establish and operate a plant for fermenting and bottling wine and distilling and bottling pomace brandy made from Maryland agricultural products. The license holder may sell and deliver this wine and pomace brandy to any wholesale licensee or permit holder in this State, or person outside this State authorized to acquire it, or sell this wine and pomace brandy to persons participating in a guided tour of the facility. The purchase by persons participating in a guided tour is limited to one quart of each brand per person per year, provided they are of legal drinking age. The license holder is also authorized to serve wine and pomace brandy as samples, but not more than 6 ounces, and to sell by the glass wine and pomace brandy produced under the license.

The hours of sale and delivery to wholesale license holders permitted under this license are from 6 a.m. to 12 o'clock midnight every day except Sunday and the day of any general, special or primary election, except as otherwise provided.

Issued under authority of Article 2B of the Annotated Code of Maryland, as amended, title "Alcoholic Beverages."



WITNESS the hand and official seal of the Comptroller of Maryland

this FIRST day of OCTOBER 2012

Cost of License \$ 200.00

No. 00771

Peter Franchot

